

**ALAMEDA COUNTY SUPERIOR COURT**  
**APPLICATION FOR APPOINTMENT TO ADR PANELS**  
*including Judicial Arbitration, Mediation, Neutral Evaluation, and Private Arbitration*

**1. APPLICANT:**

Applicant's Name: Michael McCabe  
Firm Name: Independent Attorney Mediator  
Address: Serving the San Francisco Bay Area + Northern California  
P.O. Box B  
City/State/Zip: Villa Grande, CA 95486  
Telephone: (800) 687-3450 Fax: (800) 687-0807  
Email: mccabe@mediate.com  
WWW: www.mccabemediation.com

**2. PANEL REQUEST: (All applicants are requested to serve as Judicial Arbitrators)**

Check each panel for which you are applying:

     Judicial Arbitration   X   Mediation      Neutral Evaluation      Private Arbitration  
  X   Referee/Special Master

**3. EDUCATION:**

Dates (from-to)	College/University/Law School	Degree Obtained
1994-1997	Jesuit School of Theology at Berkeley	Masters in Theological Studies
1961-1964	University of San Francisco	Law - J.D.

**4. LEGAL EXPERIENCE:** State Bar No. 34727 Date Admitted: 1964

A. Are you a member in good standing of the State Bar of California?   X   Yes      No

B. Are you a retired judicial officer?      Yes   X   No

Please describe when/where you last served as a judicial officer: Pro Tem - Contra Costa County - 2000

C. Are you actively engaged in the practice of law at this time?      Yes   X   No

If not, are you retired from practice?   No   Date retired: Full time Attorney Mediator since 1995

If your license is presently inactive, please explain:     

D. Are you currently active in litigation practice?      Yes   X   No

Approximately what percentage of your practice involves litigation?   N/A   %

E. If your practice includes personal injury litigation, approximately what percentage of your practice involves the representation of: plaintiffs   N/A   %; of defendants   N/A   %?

F. How many of the following have you personally handled as attorney of record in the past five years? Jury Trials   0  ; Court Trials   0  ; Mediations  250 ; Arbitrations  10 ;

G. Describe any legal publications or teaching you have done: Training + Coaching for The Mediation Society; the Association for Conflict Resolution; 1st District Court of Appeal; University of San Francisco; Cal. State U., Sonoma; Contra Costa + Sonoma Bar Associations; Steven Rosenberg, Nancy Yreud (John Paul Jones Group) + Michael Fogel (Interest-Based Negotiation).

## 5. ADR TRAINING and EXPERIENCE

Course Title	Sponsoring Organization	Hours of Credit	Dates
over 200 hours, and continuing, including U.S. District Court; California Dept. of Insurance; U.S. Postal Service; Litigation Risk Management; Victim-Offender Programs; Nancy Yeend; Steven Rosenberg; Gary Friedman; etc. (see resume)			

A. Number of years experience as: mediator 8 ; arbitrator N/A ; neutral evaluator N/A ;

B. List all other court-connected ADR panels of which you are a member, specifying the processes for which you have qualified: Mediator - U.S. District Court; Superior Courts in Contra Costa, Marin, San Francisco, San Mateo, Solano, Sonoma

C. State the name(s) of any organization(s) through which you have provided ADR services during the past five years, giving the dates and the services you provided: Mediation + Referral Special Master: Michael McCabe, Independent Attorney Mediator + ACBA ADR Program

D. Describe the subject matter of five disputes in which you served as the ADR provider in the past 5 years, including the dates of service, the process and if you were sole or co-provider.

1. Commercial + Residential Real Estate Disputes - multiple ;
2. Disputes among family members over Estates + Trusts - multiple
3. Disputes among Business Associates regarding transactions + relationships
4. Personal Injury + Wrongful Death Disputes, including Professional Negligence
5. Employment Disputes, including sexual harassment, discrimination, etc.

E. Is your ADR style best described as X facilitative or      evaluative/directive?

F. Describe any ADR related publications or training you have done: see 4 G. above.

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G. Set forth your hourly fee or fee schedule, including any sliding scale or pro bono provisions. Attach a copy of your fee agreement. (Please note: Judicial arbitrators waive compensation for the first three (3) hours of hearing time in Alameda County and all ADR panelists are requested to accept at least three (3) Judicial arbitration cases per year).

\$ 300 per hour (4 hour minimum) + \$50 per party administrative fee

## 6. AVAILABILITY/SPECIAL REQUIREMENTS

A. List any languages, other than English, in which you are able to conduct ADR proceedings:

B. Please state any special bi-cultural/multi-cultural capabilities or familiarity you possess:

C. You are available to conduct ADR conferences:      in your office; X at counsel's office; X other (please describe: Neutral locations)

D. You are available to conduct ADR proceedings: X during regular office hours;      evenings by appointment;      weekends by prior arrangement;

E. Please describe any requirements you have for ADR participants such as submission of copies of pleadings, briefs, declarations in lieu of testimony, etc.: Exchange briefs one week in advance of mediation

## 7. SUBJECT MATTER DESIGNATION

Please check each area below in which you are qualified by training/experience to provide ADR services, indicating the percentage it represents of your law practice, if any, and the ADR process(es) which you are prepared to offer in that area:

mediation

Case Type Accepted	% of Practice	Judicial Arb.	Mediation	Neutral Eval.	Private Arb.
Bankruptcy					
Business/Corp. •			10		
Civil Rights •			3		
Collections •			3		
Construction •			5		
Contracts •			5		
Elder law/abuse •			3		
Employment			1		
-Discrimination •			3		
-Harassment •			3		
-Termination •			3		
Environmental •			3		
Fraud •			5		
False Imprison. •			3		
Family Law					
HO Ass'n •			3		
Insurance Cov.					
Intellect. Property					
Landlord-Tenant •			3		
Legal Malpractice •			3		
Maritime					
Med Malpractice •			3		
Partnership •			5		
P.I. – Auto •			5		
P.I. – Other •			5		
Premises Liability •			5		
Probate/Trust •			5		
Product Liab. •			3		
Real Property •			5		
Securities/					
Tax					
Toxic Torts •					
Wrongful Death •			3		
Other: <i>energy</i>			3		



### EMPLOYMENT AND CONFIDENTIALITY AGREEMENT

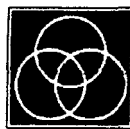
The parties hereto employ Michael McCabe, Mediator, to conduct one or more **CONFIDENTIAL MEDIATION** sessions and follow-ups for the purpose of compromising, settling or resolving a dispute in whole or in part, and agree that the provisions of Evidence Code Sections 703.5 (the mediator is not competent to testify) and 1119 (nothing said in a mediation is discoverable or admissible in this or another civil proceeding) shall be controlling. Moreover, the undersigned further agree:

1. All communications, negotiations, or settlement discussions by and between participants or mediator shall remain confidential.
2. Evidence of anything said, of any admission made, or of any apology given in the course of the mediation is not admissible in evidence or subject to discovery in this or any other civil proceeding.
3. No writing prepared for the purpose of, in the course of, or pursuant to the mediation is admissible in evidence or subject to discovery, and disclosure of such a writing shall not be compelled in any civil action or proceeding.
4. Evidence otherwise admissible or subject to discovery outside of mediation shall not be or become inadmissible or protected from disclosure solely by reason of its introduction or use in a mediation.
5. Any communication or document which may otherwise be privileged or confidential may be disclosed in mediation, yet will retain its privileged and confidential status thereafter.
6. All unaccepted settlement offers made in the course of mediation shall remain confidential, and shall not be repeated or quoted in any later proceeding.
7. Parties to mediation may share information disclosed at a mediation only with principals in the decision making process on a "need to know" basis. No participant to a mediation shall disclose any mediation information to third parties, including the press, unless and until a written agreement of all participants authorizing such disclosure is made.
8. When agreement is reached, a written "Waiver of Confidentiality Agreement for Purposes of Recording Settlement" will be signed by the parties (Evidence Code Section 1123). Such "Waiver will not authorize disclosure of the mediation proceedings, but only of the settlement reached so that it may be completed and enforced. The "Waiver" may include a provision for continued confidentiality of settlement terms, if so agreed by the parties.
9. The Mediator is not competent to testify in any subsequent civil proceeding as to any statement or conduct at or in conjunction with the mediation, except for criminal threats or behavior, or investigations of professional competence. Any party who attempts to force the mediator to testify regarding the proceedings at mediation will pay the mediator's fee as well as costs including attorneys fees.

The undersigned participants have each been provided with a copy of the Mediator's schedule of *Fees for Services*, and agree to be bound by its terms. This document is admissible in any proceeding in which its existence and terms are in issue.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



### **SCHEDULE OF FEES FOR SERVICES**

- Administrative Fee: \$50 per side, due upon scheduling, non-refundable.
- Hourly Fee: \$300 divided among the parties.  
(Time includes Mediator's pre-mediation contacts with attorneys and parties, review of materials submitted, convening and conducting mediation sessions, and follow-up, including contacts with attorneys, parties, and other appropriate persons.)
- Reservation Deposit: Four hour minimum, \$1,200.
- Costs incurred at the instance of the parties are divided equally and billed accordingly.
- \$50 rescheduling fee per side.

### **TO SCHEDULE A MEDIATION**

Contact our office at 800-687-3450 (Fax: 800-687-0807) to reserve ½ day or more of Mediation time. Suggest the location of your choice.

Please provide the following information: name and action number of the case, names, telephone numbers, fax numbers, and addresses of all parties and counsel. (E-mail addresses are also helpful.) Please be prepared to summarize the nature of the case and identify all those whose presence at the mediation (whether or not parties) is essential or would be helpful. Our office will assist you in contacting the others to arrange a date and location for the Mediation.

### **RESERVATION DEPOSIT**

The Administrative Fee together with your Deposit for time reserved are due when the Mediation is scheduled.

### **PAYMENT FOR SERVICES:**

In the event additional time is required, additional fees are due and payable at the conclusion of the mediation. Responsibility for payment of the fees is not only that of the Parties, but also that of the Attorney or other Representative of the Parties.

### **CANCELLATIONS:**

The Administrative Fee is non-refundable. The Reservation Deposit is refundable if the Mediation is cancelled more than ten days prior to the scheduled date.